

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13

OFFICE DEPOT, INC.¹

Employer

and

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 705, AFL-CIO

Petitioner

Case 13-RC-20283

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record² in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.³

3. The labor organization(s) involved claim(s) to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.⁴

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:⁵

All full time and regular part-time DSRs, lead DSRs and DSR Assistant helpers located at the Employer's facility in Carol Stream, Illinois, and its Lansing and Rockford, Illinois transfer points including the "stem DSRs" who begin and end their routes from Carol Stream, deliver products to the transfer points, and then continue with their assigned routes; but excluding office clerical employees, warehouse associates (including janitors), lead warehousemen, DSR Assistant loaders, reconciliation employees (plant clericals), customer service representatives (dispatchers, equipment operators, supervisors and guards as defined in the Act.

DIRECTION OF ELECTION*

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at

the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 705, AFL-CIO

LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of the full names of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359, fn. 17 (1994). Accordingly, it is hereby directed that within 7 days of the date of this Decision 2 copies of an election eligibility list, containing the full names and addresses of all of the eligible voters, shall be filed by the Employer with the undersigned Regional Director who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in **Suite 800, 200 West Adams Street, Chicago, Illinois 60606** on or before April 11, 2000. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, Franklin Court Building, 1099-14th Street, N.W., Washington, D.C. 20570**. This request must be received by the Board in Washington by April 18, 2000.

DATED April 4, 2000 at Chicago, Illinois.

/s/ Elizabeth Kinney
Regional Director, Region 13

*/ The National Labor Relations Board provides the following rule with respect to the posting of election notices:

(a) Employers shall post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. In elections involving mail ballots, the election shall be deemed to have commenced the day the ballots are deposited by the Regional Director in the mail. In all cases, the notices shall remain posted until the end of the election.

(b) The term "working day" shall mean an entire 24-hour period excluding Saturdays, Sundays, and holidays.

(c) A party shall be estopped from objection to nonposting of notices if it is responsible for the nonposting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Director at least 5 working days prior to the commencement of the election that it has not received copies of the election notice.

- 1/ The names of the parties appear as amended at the hearing.
- 2/ The arguments advanced by the parties at the hearing have been carefully considered.
- 3/ The Employer is a corporation engaged in supplying office products nationwide.
- 4/ The Employer has submitted a Motion to Dismiss Petition or Alternatively to Stay the Processing of the Petition due to the Employer's claim that an imminent and substantial change in the scope and nature of the unit will occur, namely, its Store Satellite Project that the Employer plans on implementing in the next six to twelve weeks.

Mark Holifield, a Senior Vice President for the Employer in Delray Beach Florida, testified that the Store Satellite project involves launching trucks from store sites instead of from CSCs such as the Carol Stream location. This program will affect 20 CSCs across the country. This program would reduce stem times and shorten drivers' routes. The Carol Stream CSC would continue to operate, but with fewer drivers. The Employer plans to implement this plan with seven Chicago locations serving as launch points for the drivers. Holifield estimated that anywhere from four to twelve drivers would launch out of a particular satellite store. This plan, according to Holifield, may involve the re-location of drivers as well as new duties. Holifield testified that the drivers will load and unload their own trucks at the sites, but was unable to elaborate on any other changes in the duties of the DSRs.

With regard to supervisory authority over the DSRs under the Store Satellite project, Holifield testified that the plans were not finalized and a system had not yet been approved. He speculated that the store managers would have some supervisory power over the drivers in addition to the Carol Stream facility. Holifield also admitted that no decision has been made yet regarding the mechanics of the plan. Holifield did testify that while a rotating schedule would not be used, drivers would fill in for each other in the event of an absence from other stores and from Carol Stream. It is unclear how this will change the DSRs duties, if at all.

According to a memo that was circulated to all the DSRs at the Carol Stream facility on February 23, 2000, the DSRs were to continue reporting to their current supervisors. Furthermore, the relocation program was to be done on a voluntary basis at first, to avoid the necessity of assignments. Jeff Rudy also held a meeting with the drivers to outline the changes.

The Rockford transfer facility currently operates in the manner that the Employer is planning for Carol Stream. The Lansing facility has also operated in that manner at times in the past. The Employer stated on the record that there are no plans to close down the Carol Stream CSC. Furthermore, the record indicates that it is unclear when these changes will be made and what effect they will have on the employees.

When the Board finds that the requested unit is expanding in size or changing in its basic character to such an extent that the present unit of employees is not representative in relation to that projected for the foreseeable future, the Board does not direct an election to be held at the date to be determined in the future, but dismisses the petition as untimely filed. *K-P Hydraulics Company*, 219 NLRB 138 (1975). In order for the proposed changes to defeat a petition as untimely, the Employer must show that the changes are definite and not speculative in nature or based upon facts which are

uncertain at present. *Mental Health Services-Erie County South East Corp.*, 220 NLRB 96 (1975).

In *Archdiocese of Los Angeles*, 223 NLRB 1218, fn.12 (1976), the Board found that a planned change that would occur at an undetermined time after the proposed election did not merit dismissal of a petition. In that case, teachers for the Archdiocese attempted to organize a union among their 26 schools for the Metropolitan Los Angeles area. The Board found the unit appropriate and the Archdiocese requested review from the Board. During the review process, the Archdiocese stated that the current Archdiocese was in the process of reorganizing, which would take place before “the end of the year.” *Id.* The Board found this planned change speculative and based upon facts which were uncertain. Furthermore, the Board stated that “it is apparent that the election herein will more than likely be held well before such changes occur, if at all.” *Id.*

Having carefully considered the contentions of the Employer, it is the opinion of the undersigned, based on the entire record herein, that the Employer did not present sufficient evidence of substantial change to warrant granting the Employer’s Motion to Dismiss. As far as the changes that are proposed to take effect in the near future, they are almost entirely speculative. Indeed, Holifield’s testimony suggests that some of these changes might not even occur at all. Moreover there is no evidence on the record that such changes that do occur will alter the job functions or conditions of employment to such a degree that the DSRs would lose the commonalties in their tasks, duties and interests.

Accordingly, I find that a question concerning representation exists and is appropriately before the Board. Based upon the foregoing, the Employer’s Motion to Dismiss Petition or Alternatively Stay the Processing of the Petition is denied.

5/ The Petitioner seeks to represent a unit of all full time and regular part time truck drivers and helpers employed by the Employer at Carol Stream and Lansing, Illinois. The Employer states that the appropriate unit is composed of the following classifications: warehouse associates, lead warehousemen, delivery service representatives, (DSRs, consisting of drivers and Assistant DSRs, who are helpers); reconciliation employees (plant clericals); customer service representatives (dispatchers); and equipment operators employed at the Carol Stream Customer Service Center and at satellite locations in Milwaukee, Wisconsin, and St. Louis Missouri, (to the extent those classifications are employed at the satellite facilities) as well as the DSRs and assistants DSRs whose routes initiate at transfer points located in Rockford, Illinois and Lansing, Illinois.

Facts

The Region determined, pursuant to the Decision and Directed Election of December 17, 1998, regarding the same issues and same parties, the appropriate unit as:

All full-time and regular part-time DSRs, lead DSRs and helpers, located at the Employer’s facility in Carol Stream, Illinois, and its Lansing and Rockford Illinois transfer points including the “stem DSRs” who begin and end their routes from Carol Stream deliver products to the transfer point, and then continue with their assigned

routes; but excluding office clerical employee, warehouse associates, (including janitors), lead warehousemen, reconciliation employees (plant clericals), customer service representative (dispatchers, equipment operators, supervisors and guards as defined by the Act.

I take Administrative Notice of the previous Decision and Direction of Election. The Petitioner did not prevail in the election to represent the foregoing employees, and has petitioned for the same unit. The Employer contends that the circumstances in the company have changed substantially, warranting a finding inconsistent with the previous ruling.

The Employer is a nationwide office product provider with two divisions, a retail division with 600 stores and a Supply Division, with 20 Customer Service Centers (CSCs) and 50 satellites. The Employer's Supply Division, the only division involved herein, divides the nation into five operating regions: Northeast, Southeast, Southwest, Midwest, and West Coast. The Carol Stream CSC, its satellites and transfer points form part of the Midwest region. The CSCs are warehouses where products are stored, picked, packed, inventoried and received. They serve an area approximately 60 miles from the CSC and operate twenty-four hours a day.

Satellites are similar to CSCs but smaller in size. Three satellite locations are associated with the Carol Stream CSC. They are located in Milwaukee, Wisconsin, St. Louis, Missouri, and Indianapolis, Indiana. The Employer does not contend in this proceeding that the Indianapolis satellite facility is included in the unit, as there are no employees at the site. Moreover, there are no employees currently at the St. Louis satellite facility, although the Employer stated an intention to hire drivers and other warehouse personnel at St. Louis on the record, but as of the date of hearing, none had been hired. The distance from Milwaukee to Carol Stream is about 100 miles; and from St. Louis to Carol Stream, about 400 miles. Products from the Carol Stream CSC are hauled to the satellite locations by third party carriers, whose drivers are not Office Depot employees. From the Milwaukee satellite, the Delivery Service representatives, (hereinafter DSRs) deliver the products to customers that the third party carriers deliver to the satellite. At the satellites themselves, no warehousing or services, such as receiving, putting away products, order selection, picking, packing or routing, are performed. Thus, only DSRs, DSR Assistants, Customer Service Dispatchers and managers work at the Satellites.

Transfer points are locations where a truck from Carol Stream delivers products that are then divided into other trucks, which disseminate the product to customers. Two transfer points are associated with the Carol Stream CSC: Rockford, Illinois, and Lansing, Illinois. Rockford is located about 80 miles from Carol Stream and Lansing is about 50 miles from Carol Stream. With respect to the transfer points, the DSRs that haul the product to Rockford or Lansing are called "stem drivers" and are part of the complement of DSRs located at Carol Stream. After they drop off part of their loads at Rockford or Lansing, they continue with an assigned route. They drive from Carol Stream to Rockford or Lansing in the morning and return to the Carol Stream CSC in the evening. Separate from the stem drivers are approximately three drivers that work from

Rockford and approximately four drivers that work from Lansing, delivering products from transfer points to customers. These drivers are considered Carol Stream drivers as well, even though they do not begin or end their routes in Carol Stream; rather, they start and end them in Rockford or Lansing.

Inside the Carol Stream CSC there are areas for picking the products to be loaded on trucks, for receiving and loading products, for reconciling orders with invoices, checks and cash and for dispatchers who have some daily interaction with the DSRs. One breakroom exists for the entire plant and it is always open. All employees, except for office personnel, enter through one employee entrance with an access card.

The CSC functions in such a way that each part of the process is dependent upon the one that precedes it. For example, purchases that the Employer receives from its vendors come in on the same docks where the DSRs' trucks are loaded, after the Employer's DSRs have left. This process occurs from about 6:00 a.m. to noon. Then detailing occurs, which is the checking in of a product that has been received, entering the information about the product into the central computer, and generating a label which is affixed to the received products.

The Employer is then ready to fulfill customer orders taken by fax and telephone the previous day. During the night, the staff prepares the orders for delivery. The computer then downloads the information according to the customer's zip code. Next a Dispatcher groups the orders geographically. The Warehouse Associates then pick orders and place the items on a conveyor belt, where they travel to a door where they will be loaded on a truck. Once the products have been picked, Warehouse Associates place packing material in the product box and seal the box. On the way, Quality Assurance employees check the orders. Finally, the products are loaded. At this point, manifests or invoice documents are printed for individual drivers. Warehouse Associates prepare the manifests and they leave them in trays for the DSRs the following day.

The employees who perform these tasks are classified as either Equipment Operators, DSR Assistants, or Warehouse Associates. Equipment Operators move pallets of products between locations in the warehouse using forklifts and other equipment. The DSR Assistants who are assigned to the warehouse load the trucks. Warehouse Associates are responsible for all other warehouse duties including, picking, quality assurance, and detailing.

DSR Assistant helpers, of which there are eight at the Carol Stream CSC are employees who help the DSR with his or her route and at the destination site. These employees ride with the DSRs, and are responsible for helping the DSRs in their duties. The helpers wear the same uniform and keep the same schedule as the DSRs. Helpers are supervised by the Transportation Manager Classick and attend all the weekly "huddle" meetings. According to the record, the helpers have little to no contact with the other Warehouse Associates or office personnel.

Before the 1998 petition, the Employer categorized various employees as Warehouse 1, Warehouse 2 and helpers. Since then, the Employer has changed the classification of Warehouse 2 to Equipment Operator, and has combined the Warehouse 1 loaders and helpers into the DSR Assistant category. This change in terminology does not alter duties or job descriptions.

The DSRs have little involvement with the warehouse functions described above. The DSRs spend one hour or less at the facility each day. This hour includes a half-hour

in the morning and a half-hour at the end of the day. DSRs begin their shift at either 6:30 or 7:00 a.m. A typical day for the drivers is approximately 9 hours. On the routes, the drivers have contact with the dispatchers via a cellular telephone provided by the Employer. The drivers mainly contact the dispatchers when they have finished a route, or if there is a problem on the road. The Employer has instituted a policy where the DSRs are to call dispatch when problems arise before 3:00 p.m. if possible, but there is no penalty for calling beyond that time. The dispatchers are located at the Carol Stream facility.

In order to be hired as a driver, an individual must have either a Commercial driver's license or a Commercial permit. Unlike other warehouse employees, DSRs must also have and maintain a good driving record both on and off duty. The DSRs are also subject to the rules and regulations of the Department of Transportation, including a bi-annual physical examination. The Employer is authorized by the drivers to perform a periodic check of their driving records. Once DSRs are hired, they undergo two orientations. One orientation is utilized for all employees and covers the basic employment functions. In addition, the DSRs have their own separate orientation seminars at their respective facilities. They are taught how to deal with customers and fill out paperwork, including productivity cards, which states the time the driver left the terminal, and whether s/he had a helper on the route.

DSRs have separate uniforms from the individuals who work in the warehouse. Warehouse employees are issued tee shirts or sweatshirts; DSRs receive shirts, pants, jackets, vests, a belt and a parka. There are also more stringent rules regarding their appearance. The DSRs and Helpers at the satellite facilities have the same uniform as the drivers at the Carol Stream facility.

In addition to the DSRs, the Employer hires Leads. These Leads are warehouse employees from various departments that function as workflow coordinators and they can also be used to fill in when a particular employee is absent. They are paid at a higher level than their co-workers, but are under the same benefit, 401(k) and medical plan as other warehouse employees. There are four DSR Leads at the Carol Stream facility and one at both Rockford and Lansing. According to the 1998 Decision and Direction of Election, the leads have more experience in a given functional area than other employees; a greater level of expertise and the ability to insure efficient workflow throughout the operation. Eighty to ninety-percent of the time, the Leads perform the same work as the other employees, depending on the level of absenteeism and the particular job. A lead cannot hire, fire, and recommend discipline, hiring or firing. While a lead can report poor performance, he or she does not determine pay levels, merit increases or promotions, or can they recommend them. Leads may temporarily transfer an employee to alleviate any workflow problems that are encountered, or in the case of the DSRs, change a route that may be too heavy or too light. The Lead can do this without prior permission from any management personnel. Leads may also decide which DSRs need a helper on their routes, based upon the criteria given to them by the management. Leads do not have their own desks or phones or offices, but share a single phone that is present on the warehouse floor. The Lead DSRs at Carol Stream do not have regularly assigned routes, but are assigned them by management. DSR leads participate in "check rides" with DSRs, where they fill out a form reflecting whether the particular driver observed all

the safety rules and regulations. These forms are not used for discipline, but merely for training, if necessary.

Helpers, who, like loaders in the warehouse, are categorized as DSR Assistants, perform tasks that are inexorably linked to the DSRs. Helpers assist the drivers with any loading or unloading they may be required to perform at the transfer facilities as well as various other tasks. The Helpers ride with the DSRs on their routes and hold the same hours as the DSRs. The uniforms of the helpers are identical to those worn by the DSRs. While loaders pack the products in the trucks for deliveries, the helpers rarely have interaction with them. According to Alfredo Anis, a helper at Carol Stream, they have little to no contact with the other warehouse employees and work primarily with the DSRs.

Since the 1998 petition, the Employer has reclassified the helpers. Currently, the helpers form part of a category known as DSR Assistant, which also includes loaders. This alteration in terminology did little to affect the duties of the employees. The loaders are responsible for loading the picked merchandise onto the truck. They often perform this task in the early morning, before the DSRs and helpers begin their shift. The helpers assist the DSRs with checking the products with the manifests when they begin their shift, but do not have any contact with loaders. The loaders wear the same uniform as the Warehouse Associates, work the same shift as many of the Warehouse Associates, and are supervised by the Administration Manager, similar to all other Warehouse personnel. In contrast, the DSR helpers are supervised by the Transportation Manager and have little to no contact with other warehouse personnel. The Petitioner's witness, Anis, testified on the record that he has had little to no contact with loaders, other than that of an informal and personal nature. The hours of the DSRs, helpers and Lead DSRs all vary from those of the other employees. The DSRs and helpers and Leads all work Monday through Friday from 6:30 or 7:00 a.m. until their load is all delivered. Other warehouse employees work varying shifts. DSR Assistant loaders, who load the trucks, work from Sunday to Thursday. They start in the afternoon or evening and work until the morning to ensure that the trucks are loaded when the DSRs get to the facility. Warehouse Associates, who are responsible for choosing the merchandise from the warehouse and sending it to the loaders, begin work from approximately 2 to 3 p.m. The Receiving Department works Monday through Friday from 5 am to 3 p.m. They put away the products received from the vendors. The Production Department begins work in the early afternoon and works until late at night or early in the morning. The Quality Control Department has three different groups that start work at four different times. In short, the evidence in the record and the uncontested portions of the previous Decision and Directed Election establish that there is not much interaction or opportunity for interaction between the DSRs, the Lead DSRs and helpers and the other warehouse employees.

Furthermore, the warehouse employees have set lunch and breaktime periods. The DSRs and helpers can take their lunch breaks or regular breaks whenever they decide, or when their route allows it. Moreover, the DSRs have no part in any of the other warehouse activities. They do not receive, stock merchandise or pick orders. The only quality control that the DSRs perform is checking the merchandise on the truck to ensure that it matches the inventory sheet. DSRs only load items that they receive in the morning from a security cage, which contain items that are either valuable or easily

stolen. DSRs sign for these items with an Inventory clerk, but have no other contact with them. If there are insufficient gas cards for all the drivers on a certain day, they may obtain cash for gas from a Reconciliation Department employee, but have no other contact with that department.

While there is little contact with other employees, the DSRs do have some sporadic interchange with other warehouse employees. If there is a shortage of helpers, a warehouse associate may help the DSR with the deliveries. Moreover, a DSR who has restricted duty due to an injury may be assigned to warehouse work until she or he recovers from the injury. Warehouse associates can become DSRs, but they must qualify under the Department of Transportation regulations. Furthermore, this type of status change is infrequent. Most employee transfers were at the request of the employee or for the employee's benefit. There is no systematic or organized transfer of employees from one classification to another.

DSRs, helpers and DSR Leads have "huddle meetings" about three times a week, which last about 10 minutes. At these meetings, a transportation manager instructs the drivers and helpers how they can improve their job performances. A dispatcher may attend the meeting from time to time, but that is not a regular occurrence. No other warehouse personnel, including loaders, take place in these huddle meetings.

The Employer's peak period is in January and February. During that time, DSRs may load portions of their truck. Furthermore, the Employer often hires temporary employees to load trucks and performs other warehouse tasks. During the remainder of the year, the DSRs rarely load their own trucks. The use of DSRs to load cargo is a result of the busier season where the Employer may utilize many employees to do tasks outside the norm.

At the end of a shift, the DSRs check in with a Quality Assurance employee if there are any security items that were not delivered. The DSRs leave the items on a pallet after they have been checked in. This process takes approximately ten to fifteen minutes. If no one is present at the Reconciliation office, the drivers can leave their paperwork, invoices, checks and cash with the same Quality Assurance employee. If a DSR finishes early, which is not common, the DSR may either leave early, or request to stay and make other deliveries or assist in the warehouse.

The satellite facilities operate somewhat differently. At the Carol Stream facility, the trucks are loaded primarily by the loaders. At the satellites, the product is taken there by a third-party carrier whose driver is not an employee. The Milwaukee DSRs load their own trucks from the trucks driven by the carriers and obtain the manifests from the carrier DSRs. The satellite DSRs do not report to Carol Stream. They are supervised by and report any problems to the satellite manager, who then contacts the CSC in Carol Stream. The satellite managers participate in weekly meetings with the managers in Carol Stream via speakerphone, but there are no meetings with the satellite employees and the Carol Stream Managers. The satellites do not utilize any of the DSRs or helpers for substitute employees.

All employees receive similar benefits, which are outlined in the Peoples Manual, which is a personnel manual disseminated by the corporate offices in Delray Beach, Florida. The new hires receive an Associate Handbook, which is a guide to the Peoples Manual. The DSRs and their helpers and leads have a separate, DSR handbook for the specifics of their particular job. Periodically, the Employer will hold open enrollment

meetings, where different benefit options are discussed. Separate meetings are held at the satellite facilities by someone from the Human Resources division and someone from the corporate office. On occasion, the Employer will initiate bonus incentives that are based on the performance of a CSC and the satellites.

Unit Scope

It is well established that a single facility unit is presumptively appropriate for collective bargaining. This principle remains unless the unit has been so effectively merged into a more comprehensive unit or is so functionally integrated that it has lost its separate identity. *Courier Dispatch Group*, 311 NLRB 728 (1993); *Esco Corp.*, 298 NLRB 837, 839 (1990) citing *Dixie Bell Mills*, 139 NLRB 629, 631 (1962). To determine whether the single facility presumption has been rebutted, the Board looks to such factors as central control over daily operations and labor relations, including the extent of local autonomy; similarity of employee skills, functions and working conditions; degree of employee interchange; distance between location and bargaining history, if any. *Id.* The burden is on the party opposing the single facility unit to present evidence overcoming the presumption of appropriateness. *J&L Plating*, 310 NLRB 429 (1993).

Based upon the record, the presumptive appropriateness of the petitioned-for single-facility unit has not been overcome, insofar as the Employer seeks to include the Milwaukee and St. Louis satellite facilities. Thus, while the record, similarly to the last hearing, demonstrates centralized control over labor relations, administration and benefits between the employees at the Carol Stream CSC and those in the same classifications at the satellites and transfer points, I find these factors are mitigated by the large geographical separation between Carol Stream and the satellites, the almost total lack of interchange and transfers between the Carol Stream and satellite facilities, and the level of autonomy displayed by the satellites in the day-to-day operations. Furthermore, there is no bargaining history from which to derive a more developed relationship than that which was stated on the record. In weighing the factors elucidated under *Dixie Bell Mills*, *supra*, I have further determined to include the DSRs and Lead DSRs at the transfer points within the scope of the Carol Stream CSC unit, since those DSRs are administratively assigned to the Carol Stream CSC. These employees have contact with the stem drivers from Carol Stream and share the immediate daily supervision as the Carol Stream DSRs through Chuck Classick.

In *Bowie Hall Trucking*, *supra*, the Regional Director found that a multi-unit facility, and not the presumptively valid single unit, to be appropriate. The Board reversed the Regional Director's finding, stating that there was sufficient managerial autonomy at the single facility, where supervisors, like those in Milwaukee and St. Louis do not have the final authority. In that case, the Board also found there was no significant interchange of employees between the terminals and that there was a significant geographic distance between the facilities. These factors mirror those presented in the instant case, and therefore, do not overcome the presumptive appropriateness of the single facility unit.

Unit Composition

The Petitioner seeks a unit of all full-time and regular part-time truck drivers and helpers. The Employer contends that the appropriate unit must contain all warehouse personnel, Equipment Operators, dispatcher, maintenance employees, office associates and warehouse assistants.

In determining the appropriateness of the unit, the Board must examine the community of interest among the employees and considers the following: bargaining history, the continuity or integration of the production process, frequency of interaction or interchange of employees; similarity of skill, qualification and work performed and similarity in wages, hours, benefits and other conditions of employment. *Armco, INC*, 271 NLRB 350 (1984). While the Board must find an appropriate unit, it does not have to find the most appropriate unit. *Omni International Hotel*, 283 NLRB 475 (1987). In the specific determination of a unit of drivers, the Board will consider, among other things: whether the drivers have related or diverse duties, modes of compensation, hours supervision and other terms and conditions of employment, and whether they are engaged in the same or related production process or operation or spend a substantial portion of their time in such production or adjunct activities. *E.H. Koester Bakery, CO.*, 136 NLRB 1006 (1962). In situations where drivers have a dual community of interest with another job classification, drivers may appropriately be included or excluded from the appropriate unit depending upon whether they are sought to be included by the petitioner and whether the unit sought is an appropriate unit. *Pacemaker Mobile Homes*, 194 NLRB 742, (1971).

The record shows that there is a substantial community of interest in the DSRs, the Lead DSRs, and the helpers. While there are rare occasions of brief duration when a driver may work in the warehouse, it is almost always because of a light-duty or license restriction and not part of a regular interchange of employees. DSRs, helpers and DSR leads have separate uniforms, separate break and lunch times and different duties. While there may be some limited interaction with other employees, the record is clear that the drivers do not know the warehouse employees by name and are unfamiliar with the duties of the other job classifications. The DSRs, helpers and Leads spend ninety percent of their time away from the facility and have different schedules than the other employees. They are managed and supervised by a separate department than the other employees. I find that the limited degree of employee interchange, as well as the other factors mentioned above, weigh in favor of excluding the other warehouse employees as part of the unit.

As previously stated, the Employer has included both helpers and loaders into the DSR Assistant classification. This distinction fails to alter any duties or functions of the loaders and helpers. While the helpers and loaders have been administratively combined, these two job categories perform significantly different work. Helpers ride with, keep the same schedule as, and wear the same uniform as the DSRs. The Loaders work in the warehouse, keep a different schedule and wear a different uniform than the DSRs. Moreover, the record indicates that there is very little contact between the two groups. Alfredo Anis, a helper who testified, stated that he worked in the warehouse one day, but that it happened once in the three years that he has worked as a helper. This further shows that the interchange between the groups is sporadic at best. Furthermore, the

Employer's Director of Human Resources, Mike Russell, referred to them separately as loaders and helpers on the record, when he was discussing the classification change. This distinction was made throughout the record and indicates a separation in the duties and functions of each of these employees, even if the Employer has melded them into one category. Russell also states that the change was made due to administrative cost comparison reasons, and not because there was any specific similarity in job duties or functions. Based on the foregoing information, I find that the helpers are appropriately included in the proposed unit, while the loaders do not share a sufficient community of interest to warrant their inclusion in the unit.

With regard to the position of the DSR Lead, the parties stipulated on the record that they do not contest the position of the DSR Leads as an appropriate inclusion in the unit and that they are not supervisors. Therefore, I find that the Lead DSRs are appropriately included in the unit.

In sum, I find the appropriate unit covering the DSRs, helpers and lead DSRs at the Carol Stream CSC and the Rockford, Illinois and Lansing, Illinois transfer points. There are approximately 60 employees in the unit found appropriate.

177-420-2900; 177-420-4000; 177-420-4025

177-420-4033; 177-5027; 177-420-6280

177-440-3300; 177-440-3000